

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: John A. Russo
City Manager

Date: April 2, 2013

Re: Implement the Biological Opinion on the Proposed Naval Air Station Alameda Disposal and Reuse Project by Approving (1) a Memorandum of Understanding by and between the United States of America, Acting by and through the United States Fish and Wildlife Service and the City of Alameda for Funding of the Predator Management Plan; and (2) a Memorandum of Agreement by and between the United States of America, Acting by and through the Department of Veterans Affairs and the City of Alameda for Implementing Lighting Measures for the Protection of the Endangered Least Tern

BACKGROUND

The Navy proposes transferring approximately 511 acres of land and 870 acres of submerged property at the former Naval Air Station Alameda (NAS Alameda) to the City of Alameda later this year, as part of its phase 1 conveyance to the City, and approximately 624 acres of the former runways at NAS Alameda to the Department of Veterans Affairs (VA) to allow the VA to construct an outpatient clinic, administrative offices, and columbarium (VA Project) (Exhibit 1). The VA proposes constructing the VA Project on approximately 112 acres of the runways and dedicating the remaining approximately 511 acres of their land for the long-term conservation of the endangered California Least Tern (Least Tern).

Pursuant to Section 7 of the federal Endangered Species Act, United States Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) in 1999 for the disposal and reuse of NAS Alameda, including the City's development contemplated in the 1996 Community Reuse Plan (Reuse Plan), which contained terms and conditions to protect the endangered Least Tern and California Brown Pelican. In August 2012, USFWS issued a new BO that superseded the 1999 BO to address the impacts of the disposal by the Navy plus both the VA Project and the City's project contemplated by the Reuse Plan (Exhibit 2). The 2012 BO contains both terms and conditions (TCs), and avoidance and minimization measures (AMMs) that must be implemented in order to mitigate impacts to the Least Tern.¹ The agenda items presented in this staff report implement AMMs 6.b, 6.c, 7, 20, and 21, and TCs 1.b and 1.c in the BO.

¹ The California brown pelican has since been removed from the list of threatened and endangered species due to recovery.

DISCUSSION

Staff recommends the City enter into a Memorandum of Understanding (MOU) with USFWS to implement AMMs 6.b and 6.c by pledging a funding mechanism for the required predator management plan (Exhibit 3).

Staff is also recommending the City enter into a Memorandum of Agreement (MOA) with the VA to implement AMMs 7, 20, 21 and TCs 1.b and 1.c by agreeing to lighting measures necessary to minimize nighttime light levels during the Least Tern breeding season (Exhibit 4).

1. MOU with USFWS Pledging a Funding Mechanism

The BO contains AMM 6.b and 6.c, which require the City to:

- Develop and implement a predator management plan for all lands conveyed by the Navy to the City;
- Inspect buildings for avian predator nests;
- Monitor the park in the Northwest Territories for avian and mammalian predators; and
- Provide an adequate funding mechanism, subject to review and approval by USFWS, to ensure that these predator management activities are provided from March 25 through August 7 of each year (least tern breeding season) in perpetuity.

The Alameda Point Predator Management Plan for Lands West of Main Street, prepared by the City's ecological consultant, H.T. Harvey & Associates, was approved by USFWS on December 10, 2012 (Exhibit B to Exhibit 3). On February 27, 2013, the City also entered into a Cooperative Service Agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (USDA) to perform the predator management activities required in AMMs 6.b and 6.c for the next three years (Exhibits C and D to Exhibit 3). The USDA currently provides these predator management services at Alameda Point under contract with the Navy.

The MOU with USFWS states that the City pledges an annual amount sufficient to fund these predator management services in perpetuity, subject to biennial appropriations by the City Council, and a 30-day reserve available to be used in the event of cessation of the funding by the City while an alternative source of funds is identified. The current annual estimate of providing the predator management services by the USDA is \$24,500. Additionally, the City may transfer the responsibility for carrying out and funding the predator management activities to a third party upon demonstration by that

party of adequate financial assurances, to the satisfaction of the USFWS, to perform the predator management services.

2. MOA with VA Agreeing to Lighting Measures

The BO contains the following AMMs and TCs for the City and/or VA related to nighttime lighting to minimize predation of the Least Terns at night:

- **AMM 7-** Applies to all property at NAS Alameda conveyed to the City or other non-federal entities to limit the effects of additional lighting on least terns. It requires the City to:
 - Perform design review and develop lighting requirements and provide them to all project applicants to ensure that the cumulative increase in ambient nighttime light levels from VA and City sources does not exceed 10 percent of the pre-conveyance levels from April 1 to August 15;
 - In coordination with the VA, conduct studies to determine the existing, pre-conveyance ambient nighttime light levels and take corrective action in the event that nighttime light levels exceed 10 percent of the pre-conveyance levels from April 1 to August 15; and
 - Perform lighting sampling annually in April and report the results of the annual April sampling.
- **AMM 20** - Requires the VA to:
 - Conduct studies to determine the existing, pre-conveyance ambient nighttime light levels;
 - In coordination with the City, measure nighttime light levels in April of each year and to take corrective action in the event that nighttime light levels exceed 10 percent of the pre-conveyance levels from April 1 to 15; and
 - Report the results of the annual April sampling.
- **AMM 21** - Requires the VA to design lighting to minimize nuisance nighttime light levels for the proposed VA Project.
- **TC 1.b** - Requires the VA and City to conduct a Service-approved nighttime lighting study to determine ambient nighttime light levels at and within 750 feet of the least tern colony and requiring certain measures to minimize lighting increases.
- **TC 1.c** – Outlines restrictions on the number of new lights, the direction and screening of lights, and tinting of windows.

The MOA with the VA outlines an agreement between the VA and City to implement the aforementioned AMMs and TCs. The two major provisions of the MOA include:

- 1) Coordinating to monitor nighttime lighting levels on an annual basis and take any corrective actions necessary to reduce nighttime lighting levels; and
- 2) Implementing lighting mitigation measures (Exhibit B to Exhibit 4) for all new improvements and development at Alameda Point.

The lighting mitigation measures were prepared by a licensed lighting engineer and reviewed by numerous City departments, including the Community Development Department and Alameda Municipal Power. New improvements and development will be required to follow these mitigation measures.

FINANCIAL IMPACT

There is no financial impact to the City's General Fund. The MOU with USFWS pledges annual funds from the Base Reuse Department's Lease Revenue Fund for implementation of the predator management plan, subject to biennial appropriations by the City Council. The current estimate for these management services is \$24,500 annually. The MOA with the VA will require the City to appropriate a nominal annual amount (\$1,000 to \$5,000) for annual monitoring and reporting of nighttime lighting at Alameda Point conducted by the City and VA.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

These actions are consistent with Chapter 9 of the City's General Plan.

ENVIRONMENTAL REVIEW

The impacts of the 1996 NAS Alameda Community Reuse Plan (as amended in 1997) (Reuse Plan) on biological resources were analyzed in Section 4.7 of the *Final EIR for the Reuse of Naval Air Station Alameda and the Fleet and Industrial Supply Center, Alameda Annex and Facility* (State Clearinghouse No. 96022105), which was certified in 2000. The analysis of Reuse Plan EIR Biological Resources Impacts 1 through 4 assumed implementation of the 1999 Biological Opinion, along with other mitigation measures, and concluded that the impacts of the Reuse Plan on biological resources would be less-than-significant. Chapter 9 (Alameda Point) of the General Plan contains Policies 9.3.e, 9.3.k, 9.3.o, 9.3.dd, 9.3.jj, and 9.3.rr (pages 6-11) concerning the implementation of the BO. The impacts of Chapter 9 of the General Plan on biological resources were analyzed in Section IV.G of the *Alameda Point General Plan Amendment EIR* (State Clearinghouse No. 2001012057) ("GPA EIR"), which was certified in 2003. The GPA EIR found that buildout consistent with the GPA would have less-than-significant impacts on biological resources due to implementation of the

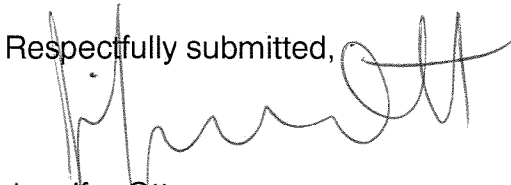
Biological Opinion, the above-listed GPA policies, and an additional mitigation measure for impacts on bat species.

Approval of the proposed MOU and MOA, which implement the AMMs in the updated, 2012 Biological Opinion, would not require major revisions to either previously certified EIR due to new or substantially increased significant environmental effects. There have been no substantial changes to the activities necessary to implement the Biological Opinion for the Reuse Plan, or with respect to the circumstances under which these implementation activities would be undertaken, that would require major revisions to either EIR due to new or substantially increased significant environmental effects, and no new information of substantial importance has been discovered that would trigger or require major revisions to either EIR due to new or substantially increased significant environmental effects. Therefore, no subsequent or supplemental environmental impact report is required before approval of the proposed MOU and MOA.

RECOMMENDATION

Implement the Biological Opinion on the proposed Naval Air Station Alameda disposal and reuse project by approving (1) a Memorandum of Understanding by and between the United States of America, Acting by and through the United States Fish and Wildlife Service and the City of Alameda for funding of the predator management plan; and (2) a Memorandum of Agreement by and between the United States of America, Acting by and through the Department of Veterans Affairs and the City of Alameda for implementing lighting measures for the protection of the endangered Least Tern.

Respectfully submitted,



Jennifer Ott
Chief Operating Office – Alameda Point

Financial Impact section reviewed,



Fred Marsh
Controller












Exhibits:

1. Map of VA Development and Base Reuse Plan
2. Biological Opinion on the Proposed Naval Air Station Alameda Disposal and Reuse Project in the City of Alameda, Alameda County, California, August 29, 2012
3. Memorandum of Understanding by and between the United States of America, Acting by and through the United States Fish and Wildlife Service and the City of Alameda for funding of the predator management plan
4. Memorandum of Agreement by and between the United States of America, Acting by and through the Department of Veterans Affairs and the City of Alameda for implementing lighting measures for the protection of the endangered Least Tern












Figure 1 Former NAS Alameda Alameda Point VA Development and Base Reuse Plan

August 8, 2012

VA Fed Transfer Parcel and Development

-  Area Subject to Biological Opinion
-  VA Parcel Boundary
(623.6ac: 112.4 ac developed, 511.2 ac undeveloped)
-  Access Road / Utility Corridor (off-site)
-  650m Setback from Tern Colony (Berm Height)
-  VA Development Area
-  NCA Cemetery
-  Outpatient Clinic Area
-  Conservation Management Office Area (Nature Center)
-  Road Right of Way (Approximately 10 ac)
-  California Least Tern Colony (9.7 ac)
-  Trail

Base Reuse Plan City of Alameda

-  Submerged Lands
-  Conservation Easement or Other Enforceable Property Interest
-  No-Wake Zone
-  Watercraft Exclusion Zone
- Building Development Zones**
-  Zone 1
-  Zone 2
-  Zone 3
-  Zone 4
-  Zone 5
-  Zone 6
-  Area of Allowed Future Development within City color-coded areas

1 inch = 1,600 feet

0 800 1,600 2,400 Feet

NORTH

